

Message Text

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ORIGIN L-03

INFO OCT-01 DHA-02 ISO-00 ORM-02 IO-13 SY-05 INR-07 INRE-00
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FM SECSTATE WASHDC
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C O N F I D E N T I A L STATE 010770

STADIS////////////////////////////////////

E.O. 11652:GDS

TAGS: SREF, UNHCR

SUBJECT:DRAFT CONVENTION ON TERRITORIAL ASYLUM

REF: STATE 5400

1. FOLLOWING LETTER FROM INS COMMISSIONER TELEPHONED TO
D/HA JANUARY 17.

2. "REFERENCE IS MADE TO YOUR LETTER DATED JANUARY 22,
1977, CONCERNING THE DRAFT CONVENTION ON TERRITORIAL
ASYLUM.

"SHORTLY AFTER THE INITIAL EXCHANGE OF CORRESPONDENCE
IN AUGUST AND SEPTEMBER 1976 BETWEEN OUR AGENCIES, I
BECAME DEEPLY CONCERNED THAT A POLITICAL UPHEAVAL IN
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NEIGHBORING COUNTRY MIGHT CONFRONT THE UNITED STATES WITH
REFUGEES BY THE HUNDREDS OF THOUSANDS SEEKING ASYLUM.
AT A CONFERENCE HERE ON DECEMBER 1, ATTENDED BY MR. DAWSON
OF THE OFFICE OF REFUGEE AND MIGRATION AFFAIRS AND
MR. KERLEY OF THE LEGAL ADVISER'S OFFICE, MY GENERAL
COUNSEL, MR. BERNSEN, RAISED THIS PROBLEM. HOWEVER, IT
WAS CAST OVER IN THE DISCUSSIONS OF DECEMBER 2 AND

DECEMBER 17, AND IN THE SERVICE MEMORANDUM OF DECEMBER 11,
IN WHICH WE GAVE ASSENT TO MR. DAWSON'S SINGLE TECHNICAL

PROPOSAL REGARDING ARTICLE 3 AND TO ONE OF THE ALTERNATE
TECHNICAL PROPOSALS HE LAYED BEFORE US REGARDING THE
'ADMITTED PROVISIONALLY' REQUIREMENT OF ARTICLE 4.

"THESE DISCUSSIONS AND COMMUNICATIONS WERE LIMITED TO
THE TECHNICAL PROBLEMS OF FINDING MUTUALLY ACCEPTABLE
WORDING FOR PROVISIONS DEALING WITH ONE PERSON AT A
TIME, AND DID NOT FACE UP TO THE MORE FUNDAMENTAL
QUESTION OF WHETHER THE UNITED STATES CAN AFFORD TO
GUARANTEE ASYLUM UNDER CONDITIONS AMOUNTING TO A MASS
MOVEMENT.

"THE ASYLUM POLICY OF THE UNITED STATES, WITHOUT
ANY INTERNATIONAL COMMITMENT, CONFORMS WITH THE
PRINCIPLES OF THE DRAFT CONVENTION. WE SHOULD BE
CAREFUL NOT TO MAKE FURTHER COMMITMENTS WITHOUT
IDENTIFYING THEM AND WEIGHING THEIR IMPACT. CERTAINLY
WE SHOULD NOT RISK THE TAKING ON OF A FORESEEABLE
INCALCULABLY HEAVY BURDEN.

"OUR ASYLUM POLICY CONTEMPLATES APPLICATIONS BY
INDIVIDUALS WHENEVER A GROUP LARGER THAN A FAMILY IS
INVOLVED, THE EXECUTIVE POLICY IS TO CONSULT CONGRESS
IN ADVANCE BEFORE AUTHORIZING PAROLE. THIS NATIONAL
FREEDOM OF ACTION GUIDED BY THE NATIONAL INTEREST SHOULD
NOT BE ABANDONED WITHOUT THE KNOWING ACQUIESCENCE OF
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BOTH THE PRESIDENT AND THE CONGRESS. I WOULD OPPOSE
EVER ABANDONING IT. -

"IN THE ABSENCE OF AN AMENDMENT TO THE DRAFT CONVENTION
WHICH WILL MAKE IT CLEAR, AS ARTICLE 5 DOES NOT, THAT
EVERY CONTRACTING STATE, WHEN FACING A MASS INFLUX
PORTENDING ECONOMIC DISLOCATIONS, HAS THE RIGHT
UNILATERALLY TO REFUSE, SUSPEND, OR LIMIT ADMISSIONS
FOR ASYLUM WHILE NEGOTIATING FOR OTHER STATES TO SHARE
THE BURDEN EQUITABLY, THE SERVICE RECOMENDATION IS THAT
THE UNITED STATES SHOULD ABSTAIN FROM SIGNING.

"I HAVE FOUND UNSATISFACTORY THE PROPOSED STATEMENT OF
POLICY CONTAINED ON PAGES 2 AND 3 OF YOUR LETTER OF
JANUARY 12, 1977. IT IS CONTRADICTORY OF ARTICLE
5, WHICH PROVIDES FOR A CONTRACTING STATE TO 'EXPERIENCE
DIFFICULTIES' BEFORE IT CAN ASK OTHER STATES TO SHARE
IT BURDENS. EXPERIENCING DIFFICULTY IS DIFFERENT
FROM ANTICIPATION OF DIFFICULTY."

3. WE ARE CONCERNED AT FOREGOING AND FEEL OBLIGED TO CANVASS POSSIBILITIES OF MEETING INS CONCERNS BY WAYS ADDITIONAL TO THOSE SET OUT REFTEL.

4. WE SUGGEST THAT ONE WAY TO MEET THOSE CONCERNS MIGHT BE TO AMEND ARTICLE 5 TO READ, "WHENEVER A CONTRACTING STATE APPREHENDS OR EXPERIENCES DIFFICULTIES IN THE CASE OF A SUDDEN OR MASS INFLUX...", ETC. IF ACCEPTED, WE WOULD PLAN TO COUPLE THIS AMENDMENT WITH THE SORT OF STATEMENT TO BE PLACED ON RECORD SET OUT REFTEL.

5. WE WOULD APPRECIATE USDEL'S IMMEDIATE COMMENTS ON THE MERITS OF THIS APPROACH AS WELL AS ITS ESTIMATE AS TO WHETHER SUCH AN AMENDMENT WOULD BE ACCEPTED IF PROPOSED. ANY ALTERNATIVE SUGGESTIONS WOULD BE WELCOMED.
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6. WE HOPE TO MEET WITH INS COMMISSIONER THIS WEEK TO CANVASS SITUATION.
KISSINGER

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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TEXT, AGREEMENTS, POLITICAL ASYLUM, DIPLOMATIC COMMUNICATIONS
Control Number: n/a
Copy: SINGLE
Sent Date: 17-Jan-1977 12:00:00 am
Decaption Date: 22 May 2009
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE010770
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Document Unique ID: 00
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Enclosure: n/a
Executive Order: GS
Errors: N/A
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Film Number: D770017-0569
Format: TEL
From: STATE
Handling Restrictions:
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770144/aaaabmpy.tel
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Litigation Codes:
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Secure: OPEN
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TAGS: SREF, US, UNHCR
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vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/7a3adbd5-c288-dd11-92da-001cc4696bcc
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